THE

WEEKLY ENTERTAINER.

For MONDAY, December 12, 1803.

INTERESTING TRIAL.

COURT of COMMON PLEAS, November 26.

CHARACTERS FROM MASTERS TO SERVANTS.

ROGERS *v.* SIR JARVIS CLIFTON.

BY the decision of the court in this case what was doubtful in the law with regard to the mode in which masters are obliged to proceed in giving characters to servants, has in some measure been settled. As it is obvious that this decision must be of great importance to persons of every rank, we shall endeavour to give so distinct a view of the case, that the law upon this point can hardly be in future misapprehended by the slowest capacity,

When Sir Jarvis Clifton took the plaintiff Rogers into his service as butler, he applied to a Mr. Holland, an oilman, with whom he had lived some time, for his character. Mr. Holland said that he had given a character with him to Colonel Whalley, to whom he had gone when he left him, and that Sir Jarvis ought therefore to require his character from his last master, as he did not choose to give any character a second time. He had, however, behaved well in his service. Sir Jarvis replied, that was character sufficient, and that he would take him. About six months afterwards, Sir Jarvis, upon his going to the country, discharged this man with some other servants. On this occasion a quarrel took place between them, the plaintiff insisting that as he was turned away without warning, he was entitled to an extra month's wages, and refusing to leave the house till he was paid; Sir Jarvis was consequently obliged to send for a Bow-street officer to turn him out. The plaintiff, subsequent to

this, offered himſelf as footman to a Mr. Hand, who, hearing from him, that he lived laſt with Sir Jarvis Clifton, applied to that gentleman for a character of the man. Sir Jarvis the next day after the plaintiff had left him, went to Mr. Holland's, and left directions with Mr. Golding, his clerk, the maſter not being at home, to tell his employer not to repeat the character which he had given of Rogers, as he was a bad-tempered, lazy, impertinent, ſellow. When he received Mr. Hand's letter, he returned an anſwer immediately, repeating the ſame words as he had done to Mr. Holland's clerk, and mentioning the circumſtance of his being obliged to call a police officer to turn him and his things out of his houſe, and to ſend to his attorney to ſettle with him about his wages. Mr. Hand, in conſequence of this anſwer, refuſed to take the plaintiff into his ſervice. Rogers, upon this, brought an action againſt Sir Jarvis at *niſi prius*, with a declaration containing three counts.

1ſt. That he had ſuffered ſpecial damage by the loſs of Mr. Hand's ſervice, cauſed by the defendant's letter.

2d. That Mr. Holland had been prevented by the defendant from giving him a character.

3d. That the defendant had generally uttered and publiſhed, certain libellous and malicious words againſt him, to the great injury of his reputation and character as a ſervant.

As this was a caſe of maſter and ſervant, malice could not, as in ordinary caſes be inferred, and it was therefore incumbent on the plaintiff to prove that the words in queſtion were both falſely and maliciouſly ſpoken. To effect this, Mr. Hand, Mr. Holland, Mr. Golding, and ſeveral ſervants of Sir Jarvis were called.

Mr. Hand confeſſed, that it was in conſequence of Sir Jarvis Clifton's letter, that he had refuſed to take plaintiff into his ſervice.

Mr. Holland ſaid, that he received the defendant's meſſage, but would not have given the plaintiff a character at any rate, as he had made it a rule never to give more than one character. The proof of the ſecond count therefore failed.

The ſervants of Sir Jarvis gave the plaintiff a good character, except that the coachman obſerved, that the plaintiff and the cook could not agree. To all this the defendant pleaded only the general iſſue. But it was not ſufficient to prove that the words in queſtion were falſely ſpoken. The jet of the caſe was malice, and unleſs the jury were of opinion that the words were maliciouſly uttered and publiſhed, the defendant would be entitled to their verdict.

The jury from the concomitant circumſtances did infer malice, and returned a verdict for the plaintiff.—Damages 20l.—Subject, however, to the opinion of the court whether a non-ſuit ſhould not be entered.

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The matter was accordingly brought before the court by Serjeant Beſt, counſel for the defendant, who moved for a rule to ſhew cauſe why a non-ſuit ſhould not be entered.

Serjeants Shepherd and Williams, on the part of the plaintiff, ſhewed cauſe againſt the rule.

This day an able reply was made by Serjeant Lens, in the place of Serjeant Beſt, who was unable to attend by reaſon of ſickneſs.

The opinion of the court upon the caſe was given as follows:

LORD ALVANLEY. "If it were once to go abroad that maſters were liable to proſecutions for any miſtakes that they might fall into in giving a character of ſervants, the conſequence would be that no characters at all would be given. Let it then be clearly underſtood that it is only when expreſs malice can be proved, that maſters are liable to actions for damages, and not for any words injurious to a character, however falſe theſe words may afterwards appear to be, and whatever inconvenience the ſervant may ſuffer in conſequence. From the caſe of Wetherſtone and Hawkins, firſt term reports, page 110, which came on before Lord Mansfield, it alſo appeared that words ſpoken in confidence with regard to a ſervant, however exceptional, could not be actionable. To apply theſe principles to the preſent caſe. The defendant has pleaded the general iſſue only, and certainly the *onus probandi* reſted upon the plaintiff. Now from the evidence, it appeared clearly that Mr. Hand had refuſed to take the plaintiff into his ſervice in conſequence of the defendant's letter. With regard to that letter, it cannot be fairly collected that the defendant intended to impute felony, or any high crime to the plaintiff, by mentioning the Bow-ſtreet officers. If it could be proved that he did intend to do ſo, it would certainly go ſtrongly to make out the caſe of malice. It might be preſumed, however, that by his entering into the particulars of their quarrel at parting, this was the ground upon which he choſe to give a bad character of his ſervant. The ſervant might indeed be guilty of diſreſpect at the time very improper, as his proper courſe would have been an action; but in the irritation of the moment, under his circumſtances, there was ſome excuſe. If the whole, however, had reſted on the letter, there could hardly be any grounds for the action, as ſervants might by this means provoke their maſters, and then aſk them for a character, knowing they would give a bad one, for the purpoſe of entrapping them to ſay words that might form the baſis of an action, as had ſometimes been done. But the defendant had, it appeared, gone next day, after diſmiſſing the plaintiff, to Mr. Holland, to requeſt him not to give him a character. If the plaintiff had been guilty of felony, or any high crime, it would have been his duty to have gone and prevented him from being

let looſe on ſociety; but conſidering the imputation, and the quarrel, which, as far as it appears, gave occaſion to it, his going ſo officiouſly to Mr. Holland certainly does wear the appearance of malice, whether it was maliciouſly done or not. The jury from the circumſtances attending the defendant's conduct have drawn the concluſion, that he was actuated by malicious motives. Had I myſelf been on the jury, I feel conſiderable doubt what I ſhould have done; but as it is, there do not appear to me any ſufficient grounds to warrant us to diſturb this verdict."

Mr. Justice Rooke.—" I am of the ſame opinion. Maſters are certainly not liable to actions for any words ſpoken of ſervants in confidence, not giving, when required, that character which they deſerve.—I will go further, and ſay, that a maſter is not liable to proſecution for words that he may openly make uſe of concerning a ſervant. Malice in theſe caſes is never to be inferred, and it is only when malicious motives can be proved to the ſatisfaction of a jury, that a maſter is to be obliged to pay damages. If, in the preſent caſe, the plaintiff had been guilty of felony, or even ſtrongly ſuſpected of being a thief, the defendant would not only have been juſtified, but it would have been his duty to have put the world as far as poſſible on its guard againſt him. But here, when the charges alledged were of ſuch a nature as not to require a vigilance ſo active (for I am afraid that many of us may at times meet with lazy, impertinent ſervants, whom, however, we for a time contrive to put up with, though none would perhaps have taken them if they had come with ſuch a character), the conduct of the defendant does convey an idea of malice. Maſters are not for every trifling quarrel to go induſtriouſly about in anger, with a deſign to work the abſolute deſtruction of a ſervant. If we were to deſcend ſo low as to allow theſe hand-bills, to prejudice our judgment, the account might be balanced by the attempts of the defendant to prevent his coachman being brought forward to give evidence. But theſe things are out of the preſent queſtion. From the circumſtances of the caſe, as brought regularly before us, it does not appear to me that this verdict ought to be diſturbed."

Mr. Justice Chambre.—" I will go further than my brothers, and ſay, that had I been on the jury in this caſe, I would have drawn preciſely the ſame concluſion as they have done. The thing that bears upon my mind is the officious eagerneſs with which the defendant acted, in going in anger the very next day, after diſmiſſing his ſervant, to Mr. Holland, to deſire him not to give a character, and ſome time after writing a letter to the ſame effect to Mr. Hand; no reaſon appearing for all this, but a trifling diſpute, to which, as far as we know, the ſervant had ſome provocation. If theſe be not circumſtances from whence to infer malice, how could it ever be proved? I admit the law,

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as laid down by my brothers, that maſters are to be protected in giving characters to ſervants, and that expreſs malice does appear, and that therefore the verdict ought to ſtand."

SERJEANT SHEPHERD then choſe to enter on judgment on the firſt count, upon which Serjeant Lens gave notice that he would move the court for an arreſt of judgment.

P. S. The law upon this ſubject, as collected from the above deciſion, appears to be this:

1ſt. Any confidential communication is not actionable.

2d. In faults of leſſer magnitude, ſuch as lazineſs, bad temper, impertinence, &c. in a ſervant, the maſter when called upon is to make a fair repreſentation; but he is not to go about induſtriouſly to ruin the man, as this carries the appearance of malice.

3d. In caſes of felony, or reaſonably ſtrong ground for ſuſpicion of felony, or any great crime in a ſervant, the maſter is juſtifiable in publiſhing his character to the world, as the law preſumes that it is done for the ſecurity of ſociety.

4th. However injurious to the ſervant the repreſentations in the two immediately preceding inſtances may be, malice is not to be inferred from them alone.

5th. Though the ſervant ſhould prove the repreſentations of his character to be utterly falſe, ſtill the maſter is not liable to be ſued, unleſs it be farther proved that in making ſuch repreſentation, he was actuated by malicious motives.

Narrative of the late Rebellion in Ireland.

(Continued from Page 449.)

SOON after this one body of the rebels marched through the mountains of Wicklow to the county of Kildare, and another returned to that of Wexford. The latter making their appearance at a place called the White Heaps, from ſome heaps of white ſtones at the foot of Croghan-mountain, the armies of General Needham and Sir James Duff moved, on the night of the 4th of July, (the former from Gorey, the latter from Carnew,) to attack them. The rebels having advanced in the mean time, were met at Wicklow-gap, a paſs between the mountains of Croghan and Conna, in the morning of the 5th, by Sir James Duff's army, from whom they retreated after a few diſcharges of his artillery, directing their march toward Gorey. They muſt now have been ſurrounded and ſlaughtered, if General Needham, who had viſited the deſerted ground of White Heaps, had not been too late in his movements, for Sir James Duff purſued them cloſely, and brought them to action at a place called Ballygullin, four miles from Gorey. Here, making a ſtand on

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ſome elevated grounds, they repulſed the advanced guard of cavalry, and might have taken the artillery which accompanied them, if they had not been apprehenſive of an ambuſcade; but by the fire of the infantry on their arrival, and that of the curricle guns, they were diſcomfited, and fled with their uſual celerity, and with little loſs, making their eſcape in various directions, and appointed to aſſemble on Corrigrua-hill. They had been purſued in the morning by the highlanders of the Marquis of Huntſley's regiment, who had marched againſt them from Arklow to Croghan mountain, and who were prevented by a fog from finding them; and they were annoyed in their flight by a body of the King's County militia, poſted in Ferns, who, on advice brought them by the Rev. Peter Browne, dean of Ferns, entered inſtantly on the purſuit, and killed ſome whom they overtook. Finding themſelves hunted from place to place, by different bodies of the king's troops, and unable to maintain any poſt, they diſperſed from Corrigrua, and no oppoſition was afterwards made to the royal army in the county of Wexford.

The other body of Wexfordian rebels directed their courſe to the county of Kildare, to form a junction with a number of their allies in that county, who had remained in arms from the beginning of the rebellion, and under the conduct of William Aylmer had eluded the king's troops, by rapid movements reciprocally from the Wicklow mountains to the bog of Allen. This junction was ſoon broken. The fierce Wexfordians quarrelled with their leſs enterprizing aſſociates; and an act of Aylmer, who took a diſputed gun from one of the former, and gave it to one of his own men, almoſt cauſed a battle between the two parties. From Properous the ill-aſſociated confederates marched to Clonard, a village twenty-five miles weſtward of Dublin, on the river Boyne, with deſign to attack Athlone, and raiſe an inſurrection in the weſtern parts of the kingdom. Though they amounted perhaps in number to three thouſand, they found ſo obſtinate a reſiſtance at Clonard, from twenty-ſeven men, under Lieutenant Tyrrel, a yeoman officer, in a fortified houſe, that they were delayed till the arrival of ſuccours from Kinnegad and Mullingar, and obliged to abandon the attempt.* From the time of this repulſe, the 11th of July, the Wexfordians, finally ſeparating from their leſs hardy aſſociates, purſued unaided their plan of

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* Fortified houſes, with garriſons of about twenty well-appointed men, appeared to be impregnable againſt the rebels, when deſtitute of cannon. From a reliance on this, two houſes in the county of Kildare, near Dunlaven, were retained in defiance of the inſurgents, during all the rebellion: that of Mr. Saunders of Saunder's grove, and that of Mr. Bookey of Grangebeg, now belonging to Mr. Critchley.

desperate adventure. Reduced to about fifteen hundred in number, and hunted in every quarter by various bodies of the king's troops, which were stationed every where around, they made a flying march from place to place, in the counties of Kildare, Meath, Louth, and Dublin, under the conduct of Fitzgerald, skirmishing with such parties of the royal army as overtook or intercepted them.

On the night of their repulse they plundered the village of Carbery, in the county of Kildare, and marched the following morning by Johnstown to a place called Summerhill, Culmullin, in the county of Meath. Here, after having eluded the pursuit of some parties of soldiery, particularly that of Colonel Gordon, of the Inverness fencibles, who had marched to seek them from Trim, they were attacked by Colonel Gough, with a body of troops from Edenderry, and obliged to fly with precipitation, and the loss of their plunder. Totally disappointed in their hopes of assistance to their cause in the county of Meath, which had been so agitated by defenderism and rebellion, they by a circuitous and rapid march made their way to the river Boyne, which they crossed near Duleek into the county of Louth. Finding themselves overtaken on the 14th, by the cavalry of Major-General Wemys, and Brigadier-General Meyrick, who were pursuing them with two divisions of the army, they made a desperate stand between the Boyne and the town of Ardee. On the arrival of the infantry and artillery to the assistance of the cavalry, who had been endeavouring to keep the rebels at bay, they broke, and fled, with some loss, into a bog. Some of these adventurers directed their flight hence to Ardee, and dispersed; but the main body, repassing the Boyne, marched with great celerity toward Dublin, perhaps with design to regain the Wicklow mountains. Being hotly pursued by Captain Gordon, of the Dumfries light dragoons, with a body of cavalry followed by infantry, they were finally dispersed, with some slaughter, at Ballyboghil, near Swords, in the county of Dublin, whence they severally endeavoured, by devious ways, to reach their homes or places of concealment.

While a bloody and desolating civil war (which I considered as terminated in the final dispersion of the Wexfordian rebels) had been raging in the county of Wexford, and occasionally afflicting the county of Wicklow, and petty rebellions had been elsewhere formed, the capital, vigilantly guarded by a large military force, enjoyed a peace not otherwise interrupted than by alarms of plots within, and hostilities without. The chief part of this military force consisted of its own citizens, formed into yeoman companies, whose conduct on this occasion merits the highest praise. Fortunately the grand and royal canals, the former on the southern, the latter on the northern side, surrounded the city; and, being fifty feet broad and twelve deep, formed a

fortification

fortification of the nature of a wet ditch, the numerous bridges of which were paliſaded and guarded both night and day.

On the 20th of June, Lord Cornwallis made his important and very modeſt entrance into the capital: and ſoon after Lord Camden made his pompous exit from the kingdom with triumphal parade. In a few days a proclamation was iſſued, and on the third of July inſerted in the Dublin Gazette, authorizing his majeſty's generals to give protection to ſuch inſurgents as, being ſimply guilty of rebellion, ſhould ſurrender their arms, abjure all unlawful engagements, and take the oath of allegiance to the king. How neceſſary was at that time ſuch a ſtep, could be a queſtion of no difficulty to thoſe who, viewing diſpaſſionately the ſtate of affairs, conſidered what numbers had been ſeduced into the conſpiracy by artifice, and forced into rebellion by unfortunate circumſtances. To give the full ſanction of law to this neceſſary meaſure, a meſſage was delivered from his excellency to the Houſe of Commons on the 17th of July, ſignifying his majeſty's pleaſure to that effect; and an act of amneſty was accordingly paſſed in favour of all engaged in the rebellion, who had not been leaders—who had not committed man-ſlaughter, except in the heat of battle—and who ſhould comply with the conditions mentioned above.

Soon after the commencement of the inſurrection, and the flight of many loyaliſts to the metropolis, and other places, for ſafety, the ſum of a hundred thouſand pounds was voted by the Houſe of Commons, for the immediate relief of ſuch among them as ſhould appear deſtitute of the means of ſubſiſtence; and for the diſtribution of this money, a moſt reſpectable body of commiſſioners was appointed, who gave to the claimants, according as the circumſtances of their ſeveral caſes appeared to require, ſums not exceeding fifty pounds. The claimants were ſo numerous that the ſum of ten thouſand pounds, which was at firſt delivered, ſoon fell ſhort of the purpoſe; but the deficiency was from the ſame fountain ſupplied, and relief was refuſed to none who appeared proper objects.

Government confined not its views to the immediate or temporary relief of the ſuffering loyaliſts. In a meſſage delivered by Lord Caſtlereagh, to the Houſe of Commons from the lord lieutenant on the 17th of July, the compenſation of their loſſes was recommended by his majeſty. The ſufferers were directed to ſend authenticated eſtimates of their loſſes to the commiſſioners, and proviſion was afterwards made by act of parliament for the compenſation of their loſſes, altogether, or in part, according to circumſtances.

The number of claimants whoſe affidavits were ſent to the commiſſioners before the 10th of April, 1799, from the counties of Kildare, Wicklow, Wexford, and Kilkenny, was three thouſand ſeven hundred and ninety-ſeven; and the eſtimates which

they made of their loſſes amounted in all to the ſum of five hundred and ſixty one thouſand two hundred and thirteen pounds. Of theſe claimants the county of Wexford furniſhed two thouſand one hundred and thirty-ſeven; the eſtimates of whoſe loſſes amounted to almoſt three hundred and ſeven thouſand pounds. The claims of ſome, I believe, greatly exceeded their loſſes; and, ſome who acquired by plunder perhaps more than they had loſt, made large demands of compenſation.

Many claims were ſent from other counties; and, ſince the 10th of April, 1799, a number alſo from the four counties above mentioned. The ſum total amounted to a million and twenty-three thouſand pounds; of which more than the half, or five hundred and fifteen thouſand pounds, was claimed by the county of Wexford: but who will pretend to compute the damages of the croppies, whoſe houſes were burned, or effects pillaged or deſtroyed, and who, barred from compenſation, ſent no eſtimates to the commiſſioners? Perhaps if the whole amount of the detriment ſuſtained by this unfortunate iſland, in conſequence of the united conſpiracy, were conjectured at two millions, a ſum of ſuch magnitude might not exceed, or even equal the reality.

(To be continued.)

SINGULAR CHALLENGE.

North Nibley, in Glouceſterſhire.

THIS manor was granted by King Henry the Second to Robert Fitz Harding, anceſtor of the Berkeley family; and it has continued in that family to this day, which is the ſpace of 560 years; but it was ſome time out of the name by the ſeizure of the Lord Liſle; a great law ſuit was thereupon commenced, which laſted 172 years, and was not finally concluded 'till 7 Jac. I. The ſuit was between Thomas Talbot, Viſcount Liſle, grandſon of Elizabeth daughter and heir female of Thomas Lord Berkeley, who died in 1417, and William Lord Berkeley, who was the heir male of that family. This ſuit was carried on with great animoſity and violence, and the Lord Liſle, upon this occaſion, ſends a challenge to the Lord Berkeley in theſe words:

"William called Lord Berkeley, I marvile ye come not forth with all your carts of gunnes, bowes, with oder ordinance, that ye ſet forward to come to my manor of Wotton, to bete it down upon my head. I let you witt, ye ſhall not need to come ſo nye, for I truſt to God to mete you nere home with Engliſh men of my own nation and neighbours. Whereas ye by ſuttle craft have blowin it about in divers places of England that I ſhould intend to bring in Welſhmen for to deſtroy and hurt my

own nation and country; I let thee witt, I was never ſo diſpoſed, nere never will be—And to the proof thereof I requyre thee of knighthood and manhood to appoint a day to meet me half way, there to try between God and our two hands all our quarrel and tithe of right for to eſchew the ſheddinge of Chriſtian mannis blood, or elſe at the ſame day bring the uttermoſt of thy power and I ſhall mete thee. An anſwer of this by writinge, as ye will abide by, according to the honour and order of knighthood."

" THOMAS TALBOT the Viſcount Liſle."

The Lord Berkeley returns an anſwer as followeth:

" Thomas Talbot, otherwiſe called Viſcount Liſle, not long continued in that name, but a new found thing brought out of ſtrang country; I marveil greatly of thy ſtrange and lowe wrytings, made I ſuppoſe by thy falſe untrue counſel, that thou haſt with thee, Hugh Mull and Holt; as to Hugh Mull it is not unknown to all the worſhipful learned men of this realme, how he is attaynt of falſenes and raſinge of the king's records, and as for the falſe miſchievous Holt, what his rull has be to the diſtruction of the king's lege pepull in my lordſhip of Berkeley, as well to the hurt of their bodies as the loſs of their goods againſt God's law, conſcience, and all reaſon, it is openly known ſo that every worſhipful man ſhould refuſe to have them in his fellowſhip; and alſo of his own free will, undeſired of me before worſhipful and ſufficient witneſs, was ſworn on a maſſe book that he ſhould never be againſt me in no matter that I had adoe, and eſpecially in that untrue tithe that he clayme which ye hold my lyvelode with wrong. And where thou requireſt me of knighthood that I ſho. appoint a day, and mete thee in the nye way betwene my manor of Woton and my caſtle of Berkeley, there to try betwixt God and our two hands all our quarrels and tithe of right for to eſchewe the ſheddings of Chriſtian men's blood, or elſe the ſame day to bring the uttermoſt of my powere, and thou would mete me; as for the determining betwixt our two hands of they untrue clayme, and my title and right of my land and true inheritance, thou wotteſt right well there is no ſuch determination of land in this realm uſed. And I aſcertayne thee that my lyvelode, as well my mannor of Wotton, as my caſtle of Berkeley, be entayled to me by fyne of record in the king's courts, by the adviſe of all the judges of this lond in that days beinge. And if it were ſo that this matter might be determined by thy hands and mine, the king our ſoveraigne lord and his laws not offended, thou ſhouldeſt not ſoe ſoone deſire but I would as ſoon anſwere thee in every point that belongeth to a knight: for thou are, God I take to record in a falſe quarrel, and I in a true defence and title. And where thou deſireſt and requireſt me of knighthood and of manhood to appoint a day,

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and that I ſhould be there with all the power I could make, and that thou would mete me half way; I will thou underſtand, I will not bring the tenth part that I can make; and I will appoint a ſhort day to eaſe thy malicious heart, and thy falſe counſel that is with thee; fail not to-morrow to be at Nibley Green at eight or nyne of the clock, and I will not fail with God's might and grace to meet thee at the ſame place, the which ſtandeth in the borders of the lyvelods that thou keepeſt untruly, redy to anſwere thee in all things that I truſt to God it ſhall be ſhewed on thee and thine to great ſhame and diſworſhip. And remember thyſelf and thy falſe counſel have refuſed to abide the rule of the grete lords of this land, which by my will ſhould have determined this matter, by thy evidence and myne. And therefore I vouch to God to record, and all the company of Heaven, that this fact and the ſhedding of Chriſtian men's blood which ſhall be betwixt us two, and our fellowſhips if any hap to be, doth grow of thy quarrel and not of me; but in my defence, and in eſchewing of reproache, and only through thy malicious and miſchievous purpoſe, and of thy falſe counſel and of thy own ſimple diſcretion; and keep the day, and the truth ſhall be ſhewed by the mercy of God."

"WILLIAM Lord of Berkeley."

The two lords the 20th of March 10 Ed. IV. with their followers, which amounted on both ſides to the number of 1000 men, met at the appointed time on Nibley Green: They engaged, and about one hundred and fifty were killed in the fight, amongſt which the Lord Liſle was ſlain by an arrow. The Lord Berkeley gained the victory, haſtened immediately to Wooton where the Lady Liſle did reſide; ſhe was then with child of her firſt child, and miſcarried upon this fright. The Lord Berkeley rifled the houſe, and carried away much of the goods and furniture, and many deeds and evidences which concerned the Lord Liſle's own eſtate; and they are at this day in Berkeley Caſtle. The government did not proſecute this riot and bloodſhed becauſe the Duke of Clarence and the Earl of Warwick were at the ſame time in rebellion againſt King Edward the Fourth, and ſeveral other public troubles enſued.

The Berkeley family is particularly obliged to John Smith, of Nibley, who wrote the hiſtory of the Lord Berkeley's family with great judgment and induſtry. He has collected their genealogical hiſtory in three large folio manuſcripts; Sir William Dugdale has abridged it, and printed it in his Baronage of England, and owns to have received his whole information from Mr. Smith's writings. No pedigree was ever better warranted by more ancient and authentic records.

DESCRIPTION *of* HAMBURG.

HAMBURG, once a diſtinguiſhed member of the Hanſeatic confederacy, ſo celebrated in the annals of Europe from the 13th to the cloſe of the 15th century, is ſtill one of the firſt cities in Germany in wealth and population, and inferior to none in commercial importance throughout the widely extended regions of the empire. It is ſituated on the confines of Holſtein, in north latitude 53° 34′, and in longitude eaſt of the meridian of Greenwich 9° 55′, about 70 miles from Cuxhaven and 80 from the mouth of the Elbe. A very advantageous poſition on the banks of a navigable river, which equally facilitates its communication with the interior of Germany and the North Sea, attracted the attention of mercantile adventurers in the dawn of civilization in the north of Europe. Its earlieſt fortifications are attributed to the age of Charlemagne; important privileges foſtered the infancy of commerce, in a ſomewhat later period; and commerce ſoon rewarded the induſtry of the inhabitants, and contributed to the ſplendour of the city.

Hamburg roſe ſtill higher in power and opulence during the exiſtence of the Hanſeatic alliance, and remained uninjured by the diſſolution of that powerful league. Its proſperity encreaſed with the extenſion of commercial intercourſe amongſt the modern nations, and its trade was generally augmented by the convulſions of the political world. The privileges of a free imperial city, encouraged the emulation of rival merchants; in times of the fierceſt warfare the flag of Hamburg was conſtantly reſpected, and the bellegerents themſelves were benefited by the reſources which a neutral port ſupplied. Hamburg thus became the great emporium of Europe during every naval conteſt, as it has been the ſtore-houſe of the north of Germany for a long ſeries of years. From the upper-regions of the Elbe, veſſels are continually arriving, freighted with the produce of the interior; and return, laden with the neceſſary ſupply of imports, for the countries depending on the navigation of this far-flowing ſtream.

In its foreign commercial relations, Hamburg is intimately connected with Great Britain, France, and almoſt every maritime power in Europe, with the United States of North America, and with ſome of the Weſt India iſlands. With the Mediterranean and the ſouth of Europe, a direct communication being prevented by the depredations of the piratical ſtates of Barbary, the produce of theſe countries is imported in foreign veſſels, to which indeed Hamburgh is tributary for a conſiderable proportion of its trade. Lubeck affords to the Hamburgers a readier means of commercial intercourſe with Ruſſia and the other ſtates of the Baltic, than the more circuitous paſſage of

Cattegat

Cattegat and the Sound; ſince goods can be tranſported from thence either by land or water, at no great expence, and with a conſiderable advantage in ſecurity and diſpatch. Hamburg is conſequently frequented by the veſſels of various countries, and becomes the reſort of the enterprizing merchants from the greateſt portion of the civilized world.

The lofty towers of Hamburg, and its maſſy ramparts, form a prominent feature in the external proſpect, riſing above the ſurrounding ſcenery, and crowning the beauties of the whole. Verdant groves, and walks ſhaded with lindens, diverſify the appearance of a ſandy plain, which the induſtry of man has cultivated and embelliſhed with no common care. Altona, the now aſpiring rival of Hamburg, in opulence and commerce, bounds the territory of the Hans-Town at a ſhort diſtance on the weſt ſide of the city; whilſt to the eaſtward a chain of outer fortifications comprehends within its limits the beautiful and extenſive ſuburb of St. George, the dependant bailiwick of Ham, and the buildings on the city dyke.

The majeſtic Elbe, interſperſed with numerous iſlands, flows to the ſouthward of the city, partly waſhing the fortifications, and partly ſeparated from the ramparts by an extenſive marſh, ſubject in winter to frequent inundations, but in ſummer affording excellent paſturage for cattle. On the north, or rather the north-eaſt, the Alſter expanded to a ſpacious lake from the confluence of ſome ſmaller ſtreams a few miles diſtant from the city, enters within the ramparts by the Lombards bridge, and forms there a beautiful baſin before it penetrates, by canals, through the interior, to mingle its waters with the Elbe. Numerous pleaſure-gardens, villas, and other edifices of a public and private nature, line the margins of the Alſter, and decorate the appearance of the adjacent plain. Thus, on every ſide of Hamburg a highly cultivated country, adorned with wood and water, forms an intereſting and variegated proſpect; the whole of which is comprehended within the bounds of the horizon from ſome elevated ſtations in the city.

The beauties of Hamburg vaniſh with the external proſpect; and the eye of taſte will ſcarcely receive one ſolitary gratification within the walls of this important city. It approaches in form towards an unequal circle, or rather an oblong, the length of which may be eſtimated at two miles and a half, the breadth at two miles, whilſt the circumference ſcarcely exceeds five. A population of near one hundred thouſand inhabitants, crowded within this ſpace, in a city abounding with warehouſes and manufactories, interſected by canals, and containing within its boundaries two ſpacious havens and an extenſive baſin, where alſo numerous areas and markets, churches and other public buildings occupy a conſiderable portion of ground, admits not the

poſſibility

poſſibility of thoſe arrangements which health and convenience equally require.

The ſouth-eaſt diviſion of Hamburg is built in the very worſt ſtyle of ancient cities; the ſtreets are narrow, dirty, and ill-paved, winding in various and complicated directions, to the great annoyance of the inexperienced traveller, who, diſdaining the aſſiſtance of a valet de place, attempts unguided to explore his way. The houſes of the principal inhabitants are lofty, commodious rather than elegant within, and preſent, after the faſhion of many continental cities, their gables towards the ſtreet. Though their height almoſt totally excludes the rays of the ſun, rows of trees are planted in front of each, which, however pleaſing their appearance in ſpring or ſummer, muſt, with their falling leaves in autumn, inevitably become a nuiſance, equally intolerable to the paſſenger, and injurious to the health of the city. The habitations of the poor are wretched hovels, crowded together in narrow lanes, and ſeldom containing more than one or two rooms. The greateſt contraſt to theſe abodes of wretchedneſs, is preſented by ſome houſes facing the ſouthern ramparts, which, with their adjoining gardens, diſplay an attention to neatneſs and elegance very ſuperior to the general appearance.

In the north weſt diviſion of Hamburg, or, as it is frequently called, the New Town, more ſpacious ſtreets and elegant houſes, a ſuperior attention to arrangement and cleanlineſs, and a more modern ſtyle of architecture prevails. Some public buildings here diſplay an elegant exterior. Areas allow a more free circulation of a purer air; an air unſaturated with the effluvia of a market, and untainted with the vapours of a foul canal. The upper haven, deſtined to receive the produce of the interior of Germany, is ſituated to the eaſtward of the Marſh; the lower haven, for veſſels from the lower regions of the Elbe and from the North Sea, at the oppoſite extremity of the ſame; both are contained within the limits of the fortifications, and communicate through canals with the greateſt part of the city. Theſe canals whilſt they certainly facilitate the conveyance of goods into every quarter, muſt too frequently produce a noxious vapour injurious to health—for though the conſtant action of the tide ought to cleanſe them of every contingent impurity, foul bottoms are occaſionally diſplayed. The communication acroſs theſe between the ſtreets and lanes is maintained by drawbridges, amounting to upwards of 80 in number, which conſequently afford a ready acceſs from one peninſular diviſion to another.

The principal harbour, in which all veſſels of burthen are moored, lies without the ramparts, extending from the lower haven to the ſouth-weſt extremity of the city—here the flags of various nations are frequently diſplayed, as the conſtant arrival or departure of veſſels enlivens the proſpect, and agitates the mind of the Hamburger with continual hopes and fears.

The fortifications of Hamburg, to which I have frequently alluded, conſiſt principally of maſſy ramparts, and a ſpacious ditch. Wooden paliſades ſupply the place of the former on the ſide of the havens, and the latter occaſionally gives place to the waters of the Alſter and the Elbe. The ramparts are flanked by 22 baſtions, mounted with ſeveral pieces of ordnance, and are guarded in the day-times by a hired ſoldiery, but during the night are committed to the protection of a civic-troop. A ſpacious walk, adorned and ſhaded with trees of various kinds, affords to the inhabitants an agreeable promenade along the ramparts, and diſplays the variegated beauties of the environs, as they ſucceſſively occur.

By reſorting to a boat for a ſhort diſtance on the ſide of the lower haven, or by there taking a circuitous courſe through the adjacent ſtreets, they may be regularly perambulated, and are a favourite reſort of the Hamburghers from every quarter of the city. Theſe ramparts may indeed be termed more truly the ornament than the defence of Hamburg; for in a military point of view their importance is indiſputably ſmall. They were lately abandoned on the firſt ſummons to the Danes, and in the preſent ſtate of military ſcience can never long withſtand the attacks of a formidable army, or avert the dangers of a regular ſiege. Four principal gates communicate with the country on the land ſide, two ſmaller portals lead into the marſhes, and two flood-gates open from the havens into the Elbe. To reſtrain the nocturnal excurſions of the inhabitants, and prevent the eſcape of delinquents under the veil of night, theſe various outlets are during every ſeaſon, with an exception in favour of the Stein-Thor leading to the ſuburb of St. George, cloſed with the ſetting ſun. Though the Stein-Thor is paſſable for a ſmall gratuity till midnight, the gates of the outer fortifications are always cloſed with thoſe of the city; but on the ſide of the Alſter, which bounds the ſuburb on the north-weſt, an eſcape into the country is practicable at every period of the night.

Though all the principal ſtreets of Hamburg are continually crowded with paſſengers, the greateſt buſtle naturally prevails on the ſide of the harbours and in the vicinity of the exchange.

The crowds in Hamburgh are compoſed of the induſtrious and the active, employed in the exerciſe of their reſpective callings; the idle rarely mix here with the buſy throng, the inquiſitive ſtill more ſeldom, and mendicants are prohibited by law. From one o'clock till three the exchange is reſorted to by merchants, manufacturers, and others intereſted in the tranſactions of the day. Within the area and in the ſtreets adjoining an immenſe concourſe is regularly aſſembled, importance in every face, haſte in every ſtep, every mind agitated by the riſe or fall of the markets, calculating on the reſpective value of banco, courant and ſpecie, or ſpeculating on the fluctuations of exchange.

change. Yet during the whole of my reſidence in Hamburg it was a general complaint, that no buſineſs could be done; the aſpect of affairs during a late important negociation varied with every mail, and ſpeculations of all kind were at a ſtand. If at ſuch a period the exchange was continually crowded, what muſt it have been, when Hamburg was the emporium of Europe, and enjoyed the almoſt excluſive commerce of the weſtern world!

To the mutual jealouſies of the neighbouring princes, and the intereſt more diſtant nations find in the ſecurity of free commercial cities, the feeble remains of a once formidable confederacy* owe the continuation of that political independence of which their leſs fortunate aſſociates have been deprived. Amidſt the awful convulſions of the preſent moment, ſo dangerous to the liberties of Europe from the deſtructive conqueſts and inſatiable ambition of hereditary ſovereigns or of upſtart ſtateſmen, of which Poland, Switzerland, and Holland, afford the ampleſt proofs, ſhould theſe induſtrious cities ſubmerge under the dominion of a crowned deſpot, or a military uſurper; their commanding ſituations might indeed retain a trade beneficial to the intereſt of the uſurper, but beneficial to him and his dominions alone. The active energies of commerce would decay in the graſp of deſpotiſm, wealth would fly before the arbitrary exactions of the rapacious invader, and induſtry would ſink under the weight of prohibition injurious to the proſperity of trade.

The government of Hamburg is adminiſtered by an elective magiſtracy, conſiſting of four burger maſters, twenty-four ſenators, and ſome other officers of ſtate, who poſſeſs the right of filling up vacancies in their own body, and the exerciſe of the whole legiſlative, executive, and judicial power.

The religion of the ſtate is Lutheran, the allied cities having early adopted the doctrines of the reformation, more congenial to the principles of freedom than the dogmas of the court of Rome.

Engroſſed almoſt ſolely with commercial ſpeculations, the citizens of Hamburg have totally neglected the patronage or cultivation of the arts. Among cities of equal celebrity ſcarcely one is ſo entirely deſtitute of ſculpture or paintings worthy of the traveller's attention, whilſt literature and ſcience have been regarded by the great maſs of ſociety with almoſt equal neglect. A monument has indeed been erected to the memory of Buſche, a celebrated mathematician and political economiſt, and a pompous cenotaph is announced for the tomb of Klopſtock, the far-famed author of the Meſſiah. But whilſt national vanity is gratified by this public diſplay of honours, decreed to the aſhes of departed genius, emulation rouſes not the youth of Hamburg to exertion in the paths of ſcience Literature is ſtill

* Hamburg, Lubeck, and Bremen.

the buſineſs of the few, not the choſen amuſement of the many —the only certain harbinger of general improvement, in the acquiſitions of ſcience or in the culture of national taſte. The recreations of the Hamburgers conſiſt in far more ſenſual gratifications, in a ſplendid equipage, and a handſome villa, in the enjoyment of ſumptuous banquets, and the dangerous but too faſcinating allurements of play. The theatre is by far the moſt rational ſource of entertainment to which they repeatedly reſort: but the drama affords varieties ſo ſuited to many different taſtes, is ſo univerſal a favourite with the public in every civilized community, that a recurrence to its amuſements in any particular ſociety can never be conſidered as a trait of its national character in a diſcriminating point of view.

Hoſpitality, elſewhere a general trait in the mercantile character, forms no prominent feature here. The Hamburgher is alone acceſſible in his counting-houſe and upon 'change. The door of his town-reſidence or his villa is rarely opened to the ſtranger, who approaches him with the moſt reſpectable introductions, if he is not ſtill more ſtrongly recommended by expected advantages in trade. Cold and formal in his evaſions on ſubjects of general inquiry, which he cannot or he will not ſatisfy, he is active and warm in his reiterated offers of ſervice in every queſtion connected with commercial advantages, or as promiſing a future extenſion of his trade. He is indefatigable in all his mercantile concerns; theſe alone employ the whole force of his genius, and diſplay the energies of each ſuperior mind. The Hamburghers in general are expert at calculation, and acquire with facility the principal languages of Europe, the two moſt important branches of education, to which the youth deſtined for commercial occupations can apply. To the merchant alone Hamburg will be the city of frequent or of choſen reſort: the general traveller will almoſt conſtantly conſider it as a mere gate to the continent, leading towards proſpects of ſuperior beauty, and opening into far more intereſting ſcenes.

M. Y.

October 7, 1803.

QUERIES.

HOW comes it, that with ſo much ſagacity and reflection, as ſome people contend ſome animals poſſeſs, the ſtrongeſt and ſhrewdeſt among them have not made the weaker and leſs intelligent ſubſervient to their uſe? How comes it that the moſt ignorant and uncultivated of the human ſpecies have, from the beginning of time, made the moſt powerful and knowing of the brute creation ſubſervient to their's?

Anſwer, by E. R. Bickham, of Newton Buſſel, to W. Carter's Anagram, inſerted October 17.

THE brood is NIDE I have deſin'd,
The ſame tranſpos'd doth ſhew we DINE;
The letter chang'd, tranſpos'd again,
Then FINE appears to me quite plain.

☞ We have received the like anſwer from T. Coumbe, of St. German's; Primroſe, of Taunton; R. Horſey, of Wellington; T. Rutger, of Clowance; J. Chubb, of Everſhot; A. Kyne, jun. of Dartmouth; W. Mann, of Aſhburton; and G. H. of Stoke Abbot.

Anſwer, by T. Rutger, of Clowance, to J. Channon's Charade, inſerted Oct. 17.

AMONG ſweet Flora's numerous train
The SWEET-PEA boaſts its lovely claim.

† We have received the like anſwer from R. Horſey, and Primroſe, of Wellington; W. Gifford, of South Petherton; J. Lewis, of Poole; and R. Holwell, of Exeter.

An ANAGRAM, *by W. Bickham, Jun. of Aſhburton.*

WHAT ladies wear aright tranſpoſe,
And it a villain will diſcloſe.

An ENIGMA, *by P. Gove, of Exeter.*

WHEN enchanting ſpring doth reign,
And gilds with beauty hill and plain,
With various ſhrubs and flowers;
How pleaſing then it is to rove,
O'er verdant meads, and flowery groves,
Or thro' the rural bowers.

The riſing lark proclaims the day,
The cuckoo uſhers in the May,
The woods with muſic ring;
Whilſt in the fields, and verdant lawns,
The friſking lambkins, and the fawns,
Their jocund ſports begin.

But ſad reverſe! ere I appear,
Nature a diſmal aſpect wears,
Immur'd in gloom and ſhades;
No ſky-lark hails the opening day,
Nor thruſh or linnet chaunt their lay,
Soft echoing thro' the glades.

Dreary and ſad each ſcene is found,
While froſt and ſnow beſtrew the ground,
Which my approach declare;
For I oft bind in icy chains,
The purling ſtreams, the fertile plains,
And deſolate the year.

Tho' overſpread with gloom profound,
Know that I am with glory crown'd,
And to remembrance bring
A glorious day: come mortals raiſe
An everlaſting ſong of praiſe
To your Almighty King.

POETRY.

For the WEEKLY ENTERTAINER.

LOYAL SONG.

WHEN our anceſtors met upon Runnymede's plains,
'Twas to vindicate freedom, and break off their chains;
Archbiſhops, and barons, knights, vaſſals, and all,
Drew the ſword from the ſcabbard, and ran to the call.

Old Langton, tho' nurs'd in the baſe air of France,
Away threw his croſier, and brandiſh'd his lance;
His mitre indignantly hurl'd to the ſky,
And with loud notes of liberty join'd in the cry.

'Twas in vain that the pope caſt a leer at the crown,
Tried to tempt the old prieſt with a cardinal's gown;
But his true honeſt heart ſcorn'd the trappings of Rome,
For what tribe would an Engliſhman barter his home?

Undaunted and ſteady they ſtuck to the cauſe,
And they gain'd Magna Charta, equal juſtice and laws;
Thro' ſucceſſion of princes their rights ſtill enlarge,
And the pride of their kings is of freemen the charge.

Shall the tame ſons of France then e'er dare to invade,
And plant their pale lilies beneath our oak's ſhade?
No: firſt may the blaſt ſtrike the root of the tree,
Ere her branches ſhall canker from contact with thee.

No: ſtill ſhall ſhe proudly high peer o'er the waves,
And pour forth her thunder to terrify ſlaves:
And when we no longer her glory can ſave,
Our blood and our aſhes ſhall mix with the grave.

A LOYALIST.

For the WEEKLY ENTERTAINER.

On travelling from Marazion to Truro in the Kittereen, with three elegant young Ladies.*

I Scorn the ſtiff, diſdainful fool,
Who taught in pride's fantaſtic ſchool,
All humble objects to deſpiſe,
Delights, his folly, to expreſs,
By apiſh tricks, and change of dreſs,
To dazzle vulgar eyes.

To comfort greater joys I owe
Than fickle faſhion can beſtow
On all that ſeek her gaudy ſcene;
Unlike the fop who, madly vain,
Would rather walk in wind and rain,
Than grace the kittereen.

The

* The kittereen is a curious carriage that takes paſſengers from Penzance to Truro and other places, but it is generally imagined a *vulgar* method of conveyance, becauſe it is attended with little expence.

The kittereen! methinks I hear
A hoſt of empty puppies ſneer,
And curſe the poet's want of pride;
But *fools* alone muſt deem me mean,
Who elſe would ſpurn that bleſt machine
Where *angels* deign to ride.

Angels! you cry with vacant ſtare,
Could ever *angels* travels there?
"Yes"—I reply—"if beauteous faces,
"And minds, (Oh! ne'er to be forgot)
"Can make them angels—but if not—
"They were at leaſt the graces."

This vehicle of curious art,
Reſembles neither coach or cart,
Wheelbarrow, whiſkey, or ſedan;
'Tis made of deal, and cover'd o'er,
Is painted green, has windows four,
In ſhape a caravan.

Thro' every village as you go,
The children ſcream, "a ſhow! a ſhow!"
Some ſay "wild beaſts," ſome "Punch and Joan!"
High fun indeed! I like the noiſe,
And laugh to hear the ſilly boys
Their diſappointment own.

Ye puppies ſmile! And ſo will I
At you with pity; but with joy
To think on thoſe enchanting laſſes;
He's bleſt who travels with ſuch charms;
But thrice bleſt he who in their arms
Life's dreary journey paſſes.

Dock. PALEMON.

For the WEEKLY ENTERTAINER.

LINES *addreſſed* TO MY FEELINGS.

AS when ſome ſounding minſtrel ſtrikes the ear,
And gives it oft a falſe diſcordant note;
Or when the roaring billows of the ſea
In hollow ſounds proclaim a threat'ning ſtorm;
So ye, my feelings! wake, diſturb'd, diſtreſs'd,
And pangs of anguiſh guſh from every nerve.
Why thrill ye thus ye ſoft exhauſted powers!
Does friendſhip's *fading ray* depreſs your touch?
Or harſh detraction's black, calumnious frown
Throw envy, malice, o'er thy flutt'ring form?
Alas! too true the cauſe! Thy injur'd powers
Repeat th' inſulting dire complaint, and cry,
"Love, friendſhip! come and feel my wound!" Alas!
'Tis ſo. A wound! a wound!

Southmolton. R. B.

On the UNCERTAINTY *of the* LAW.

TWO lawyers, when a knotty cauſe was o'er,
Shook hands, altho' they'd wrangled hard before.
"Zounds!" ſaid the client, who was call, "pray how
"Can you be friends, that were ſuch foes juſt now?"
"You fool," ſays one, "we lawyers, tho' ſo keen,
"Like ſhears, ne'er cut ourſelves—but what's between."